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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,245	03/25/2004	M. William Bowsher	BOMDENUS	1755
20738	7590	01/09/2008	EXAMINER	
THOMAS P O'CONNELL 1026A MASSACHUSETTS AVENUE ARLINGTON, MA 02476			DOAN, ROBYN KIEU	
		ART UNIT	PAPER NUMBER	
		3732		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/810,245	BOWSHER, M. WILLIAM	
	Examiner Robyn Doan	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 October 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 4-23,49-53 and 59-68 is/are pending in the application.
- 4a) Of the above claim(s) 24-28,32,35-45 and 54-58 is/are withdrawn from consideration.
- 5) Claim(s) 46-53 and 59-63 is/are allowed.
- 6) Claim(s) 4-23 and 64-68 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

## DETAILED ACTION

Applicant's Amendment filed 10/19/2007 has been entered and carefully considered. Claims 4, 6, 7, 9, 11, 12, 15, 16 and 67 have been amended. Limitations of amended claims have overcome the 35 U.S.C. 112 2nd paragraph; however, arguments regarding the 35 U.S.C 102 (b) and 103 (a) have not been found to be persuasive, therefore, claims 4-23, 64-68 are rejected under the same and new ground rejections as set forth below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Cheng (United States Patent No. 5,199,452).

Cheng discloses a dental hygiene apparatus comprising a dispensing member 12, a means 24 for retaining dental floss relative to the dispensing member, an accumulating member 14, and a means 32 for accumulating dental floss relative to the accumulating member. The dispensing member and the accumulating member are color coded (see col. 4, lines 39-47). The means for retaining floss comprise a

dispensing bobbin and an accumulating bobbin. The bobbins are enclosed in a housing of the respective dispensing and accumulating members.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 6 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Altshuler (United States Patent No. 5,415,188) and Winters.

Cheng discloses the invention essentially as claimed and further discloses the means for accumulating dental floss including an accumulating bobbin (see fig. 3); Cheng fails to show the means for assuring unidirectional rotation of the dispensing bobbin the dispensing member and the accumulating member each including an annular ring and the dispensing bobbin being annular. Altshuler discloses a flossing device wherein means are provided on both the dispensing bobbin and the accumulating bobbin are each provided with means for assuring unidirectional rotation (col. 2, lines 9-31). Winters discloses a flossing device wherein the floss spool is contained in a housing and includes a ring for receiving the finger of the user (see figure 10). It would have been obvious to one skilled in the art to provide the dispensing bobbin of the device of Cheng with means for assuring unidirectional rotation of the dispensing bobbin in view of Altshuler in order to prevent used floss from being wound

on the dispensing bobbin, thus assuring only clean floss will be dispensed therefrom and it would also have been obvious to one skilled in the art to provide the device of Cheng as modified by Altshuler with a ring on the accumulating member in view of Winters in order to allow the user a better grip on the device. And it would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the shape of the ring and the dispensing bobbin being annular, since such a modification would have involved a mere change in the shape of the known component. A change in shape is generally recognized as being within the level or ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Claims 7, 8 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Winters.

Cheng discloses the invention essentially as claimed except for the dispensing member and the accumulating member each including an annular ring and the dispensing bobbin being annular. Winters discloses a flossing device wherein the floss spool is contained in a housing and includes a ring for receiving the finger of the user (see figure 10). It would have been obvious to one skilled in the art to provide the device of Cheng with a ring on each of the dispensing member and the accumulating member in view of Winters in order to allow the user a better grip on the device. And it would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the shape of the ring and the dispensing bobbin being annular, since such a modification would have involved a mere change in the shape of the

known component. A change in shape is generally recognized as being within the level or ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Claims 9, 10, 12-17, 22, 23, 65 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Alvarez (United Sates Patent Publication No. 2004/0163665) and Winters.

Cheng discloses the invention essentially as claimed except for the means for inducing automatic accumulation of floss and the accumulating member each including an annular ring and the dispensing bobbin being annular. Alvarez discloses a flossing device having means for inducing automatic accumulation of floss on the accumulating bobbin and also a scrubber element 36. Winters discloses a flossing device wherein the floss spool is contained in a housing and includes a ring for receiving the finger of the user (see figure 10). It would have been obvious to one skilled in the art to provide the device of Cheng with means for inducing automatic accumulation of floss in view of Alvarez in order to make it easier for the user to refresh the section of floss when it becomes used. It would have been obvious to one skilled in the art to provide the device of Cheng as modified by Alvarez with a ring on the accumulating member in view of Winters in order to allow the user a better grip on the device. And it would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the shape of the ring and the dispensing bobbin being annular, since such a modification would have involved a mere change in the shape of the known component. A change in shape is generally recognized as being within the level or ordinary skill in

the art. In re Rose, 105 USPQ 237 (CCPA 1955). Regarding claim 23, it would have been further obvious also in view of Alvarez to provide a scrubber member in order to neutralize any germs that are on the floss.

Claims 18 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Alvarez and Winters as applied to claims 16 and 65 above, and further in view of Altshuler.

Altshuler discloses a flossing device wherein means are provided with a coil spring for rotating the accumulating bobbin. It would have been obvious to one skilled in the art to provide the device of the combination Cheng as modified by Alvarez and Winters with a coil spring for rotating the accumulating bobbin in view of Altshuler instead of a motor in order to provide a more simplified device that does not need to utilize batteries.

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Winters as applied to claim 7 above, and further in view of Sullivan (United States Patent No. 3,745,788).

Sullivan discloses a means for varying the size of a ring comprising a removable sizing member 14. It would have been obvious to one skilled in the art to provide the device of Cheng as modified by Winters with a removable sizing member for varying the size of the ring in view of Sullivan in order to assure proper fitting of the ring on the finger of the user.

#### ***Allowable Subject Matter***

Claims 49-53 and 59-63 are allowed.

***Response to Arguments***

Applicant has argued that none of the cited references show a dental hygiene of claim 11 including a dispensing member and a separate accumulating member that are color coded. This is not true. As discussed above, Cheng discloses all the claimed structures (see the above rejection of claim 11).

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robyn Doan/  
Primary Examiner  
Art Unit 3732

rkd  
January 6, 2008